



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 10, 1996

Brigadier General Daniel James III
Texas Air National Guard
Adjutant General's Department
P.O. Box 5218
Austin, Texas 78763-5218

OR96-0915

Dear General James:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39522.

The Adjutant General's Department (the "department") received a request for a copy of a legal review related to a grievance filed by an employee of the department. You have submitted a copy of the requested document to this office for our review and contend that the document is a "legal opinion" and is excepted from disclosure under sections 552.101 and 552.111 of the Government Code.

In your request for an opinion, you cite two cases concerning the attorney-client privilege. You also cite Open Records Decision No. 556 (1990), in which this office considered the attorney-client privilege under section 552.101. Additionally, the document you have submitted for our review states that it is protected by the attorney-client privilege. Although you assert sections 552.101 and 552.111 of the Government Code to support this proposition, the attorney-client privilege is properly considered under section 552.107(1). See Open Records Decision No. 574 (1990) at 2. Section 552.107(1) excepts from disclosure

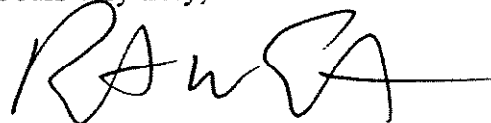
information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct.

Information may be withheld under section 552.107(1) only to the extent that it documents confidences of a governmental representative to its attorney or reveals the attorney's legal advice and opinions. Open Records Decision Nos. 589 (1991), 574 (1990).

We have reviewed the information you contend is excepted under the attorney-client privilege and agree that it contains confidences of a governmental representative to its attorney and reveals an attorney's legal advice and opinions.¹ Therefore, you may withhold this information under section 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'RWS', followed by a horizontal line.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref.: ID# 39522

Enclosure: Submitted document

cc: Ms. Linda I. Meister
Adjutant General's Department
P.O. Box 5218
Austin, Texas 78763-5218
(w/o enclosure)

¹ We assume that none of the information that you claim is excepted under the attorney-client privilege has been disclosed to outside parties. Information exchanged with a third party is not excepted from disclosure under section 552.107. Open Records Decision No. 574 (1990) at 5-6.